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EXAMINER

FRENEL, VANEL

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/752,274	Applicant(s) LIEBERMAN ET AL.	
	Examiner Vanel Frenel	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34,36-38 and 40-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34,36-38 and 40-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |



DETAILED ACTION

Notice to Applicant

1. This communication is in response to the Amendment filed on 01/26/05. Claims 1, 3-13, 32-33, 36-37 and 40 have been amended. Claims 35 and 39 have been canceled. Claims 1-34, 36-38 and 40-44 are pending.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 32 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claim 32 recites "a method for determining if an employee is entitled to leave under the Family Medical Leave Act (FMLA)" but does not utilize any

technological device (e., a computer or automated processor) in performing the various steps of "processing".

As to technological arts recited in the preamble, mere recitation in the preamble (i.e., intended or field of use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea unless there is positive recitation in the claim as a whole to breathe life and meaning into the preamble.

Mere intended or nominal use of a component, albeit within the technological arts, does not confer statutory subject matter to an otherwise abstract idea if the component does not apply, involve, use, or advance the underlying process.

Additionally, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result.

In the present case, claim 32 as a whole is directed to a method for determining if an employee is entitled to leave under FMLA, preferably by a computer system. As such, this invention produces an useful, concrete, and tangible results as either approves or disapproves an FMLA claim.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-34, 36-38, and 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimse et al (6,269,355), Computer-guided FMLA administration by Gary Meyer, May 1997) in view of Absence Mgr.com Upgraded to Account for Family Medical Leave Act Requirements; Web-Based Tool Helps Employers to Better Manage Employee Absences by Deborah Kweller (Business Editors; Business Wire; New YORK; Feb 16, 2000).

(A) As per claim 1, Grimse discloses a method for processing and tracking requests for leave under the Family Medical Leave Act (FMLA) (Col.9, lines 23-38) using a web-based computer system configured with at least one server which includes an employee FMLA database, the system including a plurality of client systems networked to the at least one server (See Grimse, Col.4, lines 29-67), said method comprising the steps of:

displaying on a first client system at least one web page including FMLA leave request form (See Grimse, Col.4, , lines 41-67 to Col.5, line 20); prompting a requester data directly into the FMLA leave request form, the requester includes at least one of an employee of an employer included within the FMLA and a representative of the employee, the request data includes information relating to a reason for a FMLA leave request, the employee and the employer, the first system is associated with the requester (See Grimse, Col.11, lines 13-38); automatically uploading the FMLA leave request form with request data from the first client system to the server, the server is associated with the employer (Col.10, lines 35-67); determining, at the server, whether the employee is eligible to receive a conditional approval of the FMLA leave request form (See Grimse, Col.10, lines 58-67); automatically downloading the conditional

approval from the server to the first client system for viewing by the requester; (Col.10, lines 42-67 to Col.11, line 38).

Grimse does not explicitly disclose promptly the medical provider to enter medical data directly into the medical certification form displayed on the second client system, the medical data includes a recommendation relating to the reason for the FMLA leave request; and downloading from the server a final approval or disapproval to the requester at the first client system.

However, these features are known as evidenced by Gary. In particular, Gary teaches promptly the medical provider to enter medical data directly into the medical certification form displayed on the second client system, the medical data includes a recommendation relating to the reason for the FMLA leave request (See Gary, Page 1, Paragraph 11 to Page 2, Paragraph 7); and downloading from the server a final approval or disapproval to the requester at the first client system (See Gary, Page 2, Paragraphs 2-7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Gary within the system of Grimse with the motivation of providing a set of specific guidelines for notification periods, medical certification, return-to-work authorization and an early return from leave should be preceded by written notification and accompanied by a physician statement (See Gary, Page 1, Paragraph 11- Page 2, Paragraph 2).

Grimse and Gary do not explicitly disclose automatically downloading the conditional approval and a medical certification form to second client system associated

with a medical provider identified by the requester; automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database; comparing, at the server, the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider.

However, these features are known as evidenced by Deborah. In particular, Deborah suggests automatically downloading the conditional approval and a medical certification form to second client system associated with a medical provider identified by the requester (Deborah, Page 2, Paragraph 1-9); automatically uploading a completed medical certification form from the second client system to the server for storage in the FMLA database (Deborah, Page 2, Paragraph 1-9); comparing, at the server, the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider (Deborah, Page 2, Paragraph 1-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Deborah within the collective teachings of Grimse and Gary with the motivation of providing a Web-based platform in which multiple employer sites can consistently quantify and monitor absence, while the information is automatically compiled and maintained on a real-time basis at a central location (See Deborah, Page 1, Paragraph 2).

(B) As per claim 2, Gary discloses a method further comprising the step of tracking employee leaves, leave requests, and leave time remaining for employees under the FMLA (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(C) As per claim 3, Gary discloses a method wherein said step of automatically uploading the FMLA leave request form further comprises the step of uploading employee personal data and employee company data (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(D) As per claim 4, Gary discloses a method wherein said step of automatically uploading the FMLA leave request form further comprises the step of uploading a reason for the requested medical leave (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(E) As per claim 5, Gary discloses a method wherein said step of automatically uploading the FMLA leave request form further comprises the step of uploading a type of medical leave requested (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(F) As per claim 6, Gary discloses a method wherein said step of automatically uploading the FMLA leave request form further comprises the step of completing the form on the requesting employees behalf (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(G) As per claim 7, Gary discloses a method wherein said step of automatically uploading a completed medical certification form further comprises the step of uploading a recommendation fro the medical provider relating to the reason for the requested medical leave (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(H) As per claim 8, Gary discloses a method wherein said step of uploading a recommendation fro the medical provider relating to the reason for the requested medical leave further comprises the step of uploading a type of medical leave deemed appropriate by a medical care provider (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(I) As per claim 9, Gary discloses a method wherein said step of automatically uploading a completed medical certification form further comprises the step of uploading medical care provider recommended dates and times for a leave (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(J) As per claim 10, Gray discloses a method wherein said step of automatically uploading a completed medical certification form further comprises the step of uploading a signature stamp of a medical care provider (See Gary, Page 2, Paragraphs 2-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claim 1, and incorporated herein.

(K) As per claim 11, Grimse discloses a method wherein said step of automatically uploading an initial FMLA leave request form further comprises the step of accepting FMLA leave request information over a telephone by at least one of a voice responsive system where a user enters spoken FMLA information and a menu system where a user enters requested FMLA information using the touch keys of a telephone (The Examiner interprets internet to be a medium that include a telephone See Grimse, Col.10, lines 15-41).

(L) As per claim 12, Grimse discloses a method wherein said step of automatically uploading a completed medical certification form further comprises the step of accepting FMLA information over a telephone by at least one of a voice responsive system where a medical care provider enters spoken FMLA recommendation information and a menu system where a medical care provider enters an FMLA recommendation using the touch keys of a telephone (Col.9, lines 23-67 to Col.10, line 57).

(M) As per claim 13, Grimse discloses a system for facilitating processing and tracking of requests under the Family Medical Leave Act (FMLA), said system comprising: at least one computer (See Grimse, Col.4, lines 41-62); a first computer associated with a requester, the requester includes at least one of an employee of an employer included within the FMLA and a representative of the employee (See Grimse, Col.4, lines 41-62) a second computer associated with a medical provider identified by the requester (Col.7, lines 41-67 to Col.8, line 28); at least one server associated with the employer further comprising: an employee FMLA request database (Col.4, lines 29-67 to Col.5, line 67; Col.9, lines 23-67 to Col.10, line 67), a network connecting said servers to said computers, said server configured (Col.4, lines 41-62) to: display on the first computer the plurality of said form including a FMLA leave request form (See Grimse, Col.4, lines 41-67 to Col.5, line 20); prompt the requester to enter request data directly into the FMLA leave request form including information relating to a reason for a FMLA leave request, the employee and the employer, receive the FMLA leave request form with the leave data from the first computer, determine whether the employee is

eligible to receive a conditional approval of the FMLA leave request form (See Grimse, Col.4, lines 41-67 to Col.5, line 20).

Grimse does not explicitly disclose promptly the medical provider to enter medical data directly into the medical certification form displayed on the second computer, the medical data includes a recommendation relating to the reason for the FMLA leave request; and download a final approval or disapproval to the requester at the first computer.

However, these features are known as evidenced by Gary. In particular, Gary teaches promptly the medical provider to enter medical data directly into the medical certification form displayed on the second computer, the medical data includes a recommendation relating to the reason for the FMLA leave request (See Gary, Page 1, Paragraph 11 to Page 2, Paragraph 7); and download a final approval or disapproval to the requester at the first computer (See Gary, Page 2, Paragraphs 2-7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Gary within the system of Grimse with the motivation of providing a set of specific guidelines for notification periods, medical certification, return-to-work authorization and an early return from leave should be preceded by written notification and accompanied by a physician statement (See Gary, Page 1, Paragraph 11- Page 2, Paragraph 2).

Grimse and Gary do not explicitly disclose automatically download the conditional approval approval to the first computer for viewing by the requester, automatically download the conditional approval and a medical certification form to the

second computer, receive a completed medical certification from the second computer for storage in the FMLA database, compare the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider.

However, these features are known as evidenced by Deborah. In particular, Deborah suggests automatically download the conditional approval approval to the first computer for viewing by the requester (See Deborah, Page 2, Paragraphs 1-9), automatically download the conditional approval and a medical certification form to the second computer (See Deborah, Page 2, Paragraphs 1-9), receive a completed medical certification from the second computer for storage in the FMLA database, compare the request data to the medical data to determine whether the reason provided by the requester for the FMLA leave request corresponds with the recommendation provided by the medical provider (See Deborah, Page 2, Paragraph 1-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Deborah within the collective teachings of Grimse and Gary with the motivation of providing a Web-based platform in which multiple employer sites can consistently quantify and monitor absence, while the information is automatically compiled and maintained on a real-time basis at a central location (See Deborah, Page 1, Paragraph 2).

(N) As per claim 14, Grimse discloses a system wherein said servers and said computers are configured to allow the requester to submit the leave request via the

Internet (Col.4, lines 41-67).

(O) As per claim 15, Grimse discloses a system wherein said servers and said computers are configured to allow the requester to submit the leave request via an Intranet (Col.4, lines 41-67).

(P) As per claim 16, Grimse discloses a system wherein said network is one of a wide area network and a local area network (Col.4, lines 41-67).

(Q) As per claim 17, Gary discloses a system wherein at least one of said servers is further configured to track employee leaves, leave requests, and leave time remaining for employees under the FMLA (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(R) As per claim 18, Gary discloses a system at least one of said servers is further configured to upload and store in said database employee leave requests (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(S) As per claim 19, Gary discloses a system wherein at least one of said servers is further configured to upload and store employee personal data and employee company data (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(T) As per claim 20, Gary discloses a system wherein at least one of said servers is further configured to upload and store a reason for the requested medical leave (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(U) As per claim 21, Gary discloses a system wherein at least one of said servers is further configured to upload and store a type of medical leave requested (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(V) As per claim 22, Gary discloses a system wherein at least one of said

servers is further configured to allow a third person to upload a leave request form on the requesting employees behalf (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(W) As per claim 23, Gary discloses a system wherein at least one of said servers is further configured to upload a completed medical certification form (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(X) As per claim 24, Gary discloses a system wherein at least one of said servers is further configured to upload a reason for the requested medical leave (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(Y) As per claim 25, Gary discloses a system according to Claim 24 wherein at least one of said servers is further configured to upload a type of medical leave deemed appropriate by a medical care provider (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(Z) As per claim 26, Gary discloses a system wherein at least one of said servers is further configured to upload medical care provider recommended dates and times for a leave (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(AA) As per claim 27, Gary discloses a system wherein at least one of said servers is further configured to upload a signature stamp of a medical care provider (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(BB) As per claim 28, Gary discloses a system wherein at least one of said

servers is configured to download a medical certification form to a named medical care provider (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(CC) As per claim 29, Gary discloses a system wherein at least one of said servers is configured to send to an employee at least one of a conditional approval and a medical certification form to an employee requesting leave (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(DD) As per claim 30, Gary discloses a system wherein at least one of said servers is configured to accept FMLA leave request information over a telephone by at least one of a voice responsive system where a user enters spoken FMLA information and a menu system where a user enters requested FMLA information using the touch keys of a telephone (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1 and 13, and incorporated herein.

(EE) As per claim 31, Grimse discloses a system wherein at least one of said servers is configured to accept FMLA information over a telephone by at least one of a voice responsive system where a medical care provider enters spoken FMLA recommendation information and a menu system where a medical care provider enters an FMLA recommendation using the touch keys of a telephone (Col.9, lines 23-67 to Col.10, line 57).

(FF) As per claim 32, Grimse discloses a method for determining if an employee is entitled to leave under the Family Medical Leave Act (FMLA) (Col.9, lines 23-45) using a web-based computer system including a server having a database and a plurality of client systems networked to the server (See Grimse, Col.4, lines 29-67).

Grimse does not explicitly disclose upon receipt of the completed medical provider form at the server, reviewing the form for a recommendation from a medical care provider; and downloading a final approval or disapproval to the first client system for review by the employee.

However, these features are known in the art, as evidenced by Gary. In particular, Gary suggests upon receipt of the completed medical provider form at the server, reviewing the form for a recommendation from a medical care provider (See Gary, Page 2, Paragraphs 2-7); and downloading a final approval or disapproval to the first client system for review by the employee (See Gary, Page 2, Paragraphs 2-7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Gary within the system of Grimse with the motivation of providing a set of specific guidelines for notification periods, medical

certification, return-to-work authorization and an early return from leave should be preceded by written notification and accompanied by a physician statement (See Gary, Page 1, Paragraph 11- Page 2, Paragraph 2).

Grimse and Gary do not explicitly disclose automatically downloading a conditional approval from the server to a first client system, the server is associated with an employer included within the FMLA and the first client system is associated with an employee of the employer; automatically downloading the conditional approval and a medical certification form a second client system, the second client system is associated with a medical provider identified by the employee.

However, these features are known in the art, as evidenced by Deborah. In particular, Deborah suggests automatically downloading a conditional approval from the server to a first client system, the server is associated with an employer included within the FMLA and the first client system is associated with an employee of the employer (See Deborah, Page 2, Paragraphs 1-9); automatically downloading the conditional approval and a medical certification form a second client system, the second client system is associated with a medical provider identified by the employee (See Deborah, Page 2, Paragraphs 1-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Deborah within the collective teachings of Grimse and Gary with the motivation of providing a Web-based platform in which multiple employer sites can consistently quantify and monitor absence, while the

information is automatically compiled and maintained on a real-time basis at a central location (See Deborah, Page 1, Paragraph 2).

(GG) As per claim 33, Gary discloses a method wherein said step of automatically downloading a conditional approval to a first client system further comprises the step of tracking employee leaves, leave requests and verifying the employee has remaining FMLA leave time (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse and Gary are as discussed above in the rejection of claims 1, 13 and 32, and incorporated herein.

(HH) As per claim 34, Gary discloses a method further comprising the step of forwarding the medical certification form to a medical care provider (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse ,Gary and Deborah are as discussed above in the rejection of claims 1, 13, and 32, and incorporated herein.

(II) Claim 36 recites the same limitations as claim 1 above, and is therefore rejected for the same reasons, and incorporated herein.

(JJ) As per claim 37, Gary discloses apparatus wherein said means for storing a plurality of FMLA forms and said means for storing employee FMLA requests comprises at least one server (Page 3, Paragraph 5).

The motivation for combining the respective teachings of Grimse, Gary and Deborah are as discussed above in the rejection of claims 1, 13, 32, and 36, and incorporated herein.

(KK) As per claim 38, Gary discloses apparatus wherein said servers is further configured to track employee leaves, leave requests, and leave time remaining for employees under the FMLA (Page 2, Paragraph 3).

The motivation for combining the respective teachings of Grimse and Gary are as discussed above in the rejection of claims 1, 13, 32, and 36, and incorporated herein.

(LL) Claim 40 recites the same limitations as claim 1 above, except a code segment which clearly teaches by Grimse ((See Figs.6-11 such as help (AMH 0001 in Fig.6 element (130) etc.)), and is therefore rejected for the same reasons, and incorporated herein.

(MM) As per claim 41, Gary discloses a computer readable medium further comprising employee personal data and employee company data (Page 2, Paragraphs 3-7).

The motivation for combining the respective teachings of Grimse and Gary are as discussed above in the rejection of claims 1, 13, 32, 36 and 40, and incorporated herein.

(NN) As per claim 42, Gary discloses a computer readable medium further comprising a record of a reason for the requested medical leave (Page 2, Paragraph 7).

The motivation for combining the respective teachings of Grimse and Gary are as discussed above in the rejection of claims 1, 13, 32, and 36 and 40, and incorporated herein.

(OO) As per claim 43, Gary discloses a computer readable medium further comprising a record of completed medical certification forms (Page 2, Paragraph 7).

The motivation for combining the respective teachings of Grimse and Gary are as discussed above in the rejection of claims 1, 13, 32, and 36 and 40, and incorporated herein.

(PP) As per claim 44, Gary discloses a method for requesting leave form an employer under the Family Medical Leave Act (FMLA) using a web-based computer system including a server having a database and a plurality of client systems to the server (See Grimse, Col.4, lines 29-67) said method comprising the steps of: displaying on a first client system at least one web page including a FMLA leave request form, the first client system is associated with an employee of an employer included within the FMLA (See Grimse, Col.4, lines 41-67 to Col.5, line 20); automatically uploading the FMLA leave request form from the first client to the server after the employee has entered request data into the FMLA leave request form, the server is associated with the employer Col.10, lines 35-67).

Grimse does not explicitly disclose downloading from the server a final approval or disapproval to the first client system based on the completed medical certification form.

However, this feature is known in the art, as evidenced by Gary. In particular, Gary suggests downloading from the server a final approval or disapproval to the first client system based on the completed medical certification form (See Gary, Page 2, Paragraphs 2-7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Gary within the system of Grimse with the motivation of providing a set of specific guidelines for notification periods, medical certification, return-to-work authorization and an early return from leave should be preceded by written notification and accompanied by a physician statement (See Gary, Page 1, Paragraph 11- Page 2, Paragraph 2).

Grimse and Gary do not explicitly disclose automatically downloading a medical certification form to a second client system associated with a medical provider identified by the employee; automatically uploading a completed medical certification form from the second client system to the server.

However, these features are known in the art, as evidenced by Deborah. In particular, Deborah suggests automatically downloading a medical certification form to a second client system associated with a medical provider identified by the employee (See Deborah, Page 2, Paragraphs 1-9); automatically uploading a completed medical

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certification form from the second client system to the server (See Deborah, Page 2, Paragraphs 1-9).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have included the features of Deborah within the collective teachings of Grimse and Gary with the motivation of providing a Web-based platform in which multiple employer sites can consistently quantify and monitor absence, while the information is automatically compiled and maintained on a real-time basis at a central location (See Deborah, Page 1, Paragraph 2).

Response to Arguments

6. Applicant's arguments filed 01/26/05 with respect to claims 1-34, 36-38, and 40-44 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches method and system for remotely managing business and employee administration functions (2002/0022982), absence-Mgr.com Upgraded to Account for Family Medical Leave Act Requirements, Web-Based Tool Helps Employers to Better Manage Employee Absences (Business Editors. Business Wire. New York: Feb 16, 2000 by Kweiler, Deborah) and FMLA Tracker saves time, simplifies record keeping (Meade, Jim. HR Magazine. Alexandria: Mar 1996. Vol.41, Iss.3; pg 132, 3 pgs).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vanel Frenel whose telephone number is 571-272-6769. The examiner can normally be reached on Monday-Thursday from 6:30am-5:00pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

V.F
V.F

May 13, 2005


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3000